

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13077, of Dee Ward, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Section 5101) to use the subject premises as an upholstering shop in a C-1 District at the premises 4622 - 14th Street, N.W., (Square 2704, Lot 61).

HEARING DATES: October 24, December 12, 1979 and January 16, 1980
DECISION DATE: April 2, 1980

FINDINGS OF FACT:

1. The subject application was scheduled for the public hearing of October 24, 1979. It was continued to the public hearing of December 12, 1979, since the applicant had not complied with Section 3.33 of the Supplemental Rules of Practice and Procedure before the BZA which requires that the subject property be posted at least ten days prior to the public hearing and that an affidavit attesting to the posting be filed at least five days before the public hearing. The subject property was never posted. At the public hearing of December 12, 1979, the application was continued to the public hearing of January 16, 1980. The property had been posted for approximately seven days and no affidavit of posting was filed.
2. At the public hearing of January 16, 1980, the Board waived the requirements of Section 3.33, as above mentioned. The property was posted for eight days instead of the required ten days.
3. The subject property is located on the west side of 14th Street, N.W. between Crittenden and Buchanan Streets. It is known as 4622 - 14th Street, N.W. and is in a C-1 District.
4. The subject site is 1,200 square feet in area and is improved with a one story brick row structure with a full front display window. There is a sign in the window which reads "Sabir-Interior, upholstery, display. The improvement was constructed in 1922.
5. The site is rectangular in shape. The rear of the site is at a higher elevation than the improvement. The rear of the site is used for parking.

6. A certificate of occupancy No. B-100089, was issued January 13, 1977 for use of the subject premises as a restaurant seating twenty persons, first floor.

7. To the north of the subject property is a card and gift shop followed by a Variety Deli and seafood carryout in the C-1 District. To the east is Fourteenth Street, a 110 foot wide right-of-way with two way traffic, followed by a Metro bus terminal in the C-M-1 District. To the south is an ice cream shop, Value Village, store front church, beauty parlor, shoe repair shop, a residentially occupied row dwelling, cleaners, and a 'mom and pop' grocery store in the C-1 District and to the west is a fifteen foot wide public alley, followed by row dwellings in an R-4 District.

8. The subject business has been in operation since April 1979. The lessee does furniture upholstery, makes furniture covers and draperies and sells fabrics and rugs. The hours of operation are from 9:00 a.m. to 6:00 p.m., Monday through Saturdays. The staff consists of three persons.

9. Furniture is picked-up in a van which is parked in the rear of the site off the public alley. There are three parking spaces to the rear. There is metered parking on 14th Street at this site.

10. An upholstery shop is not a permitted use in the C-1 District. An upholstery shop is first permitted as a matter-of-right in the C-2 District.

11. Paragraph 8207.11 of the Zoning Regulations lists specific findings which must be shown in order to support the grant of a use variance. In brief there must be a showing of hardship upon the owner of the property due to reasons relating to peculiar physical characteristics of the site, and a showing that the variance if approved would not cause substantial detriment to the public good.

12. The subject upholstery shop is located in a structure and on a lot which are of the same general description as several of the other properties to its north which are occupied with uses permitted in the C-1 District.

13. Advisory Neighborhood Commission - 4C made no recommendation on the application.

14. There was no opposition to the application at the public hearing or of record.

15. The record was left open at the public hearing of January 16, 1980 for the lessee to submit a letter from the owner of the property authorizing the lessee to process the application before the BZA and for the owner to submit a detailed statement reflecting why the subject property could not be put to a C-1 use, indicating if the premises were advertised for C-1 use, what responses the owner received and the rent requested.

16. By letter of March 10, 1980, the lessee was advised that he had not responded to the Board's requests for the additional submissions to the record. None of the additional evidence requested was submitted.

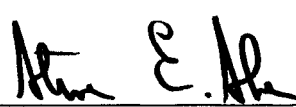
CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking a variance from the use provisions. This requires a showing of a hardship upon the owner of the property that arises from the property itself. The Board concludes there is nothing on the subject site relating to physical characteristics or extraordinary or exceptional situations which precludes the use of the property for a use for which it is zoned. Also, the lessee has failed to submit any evidence as requested that the property would not be put to a C-1 use. Accordingly, the application is DENIED.

VOTE: 4-0 (Connie Fortune, William F. McIntosh and Leonard L. McCants to DENY; John G. Parsons to DENY by PROXY; Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

2 JUN 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."